

Department of Social and Health Services

DP Code/Title: PL-DP Community Protection Placements

Program Level - 040 Div of Developmental Disab

Budget Period: 2003-05 Version: D2 040 2003-05 2004 Sup-Agency Req

Recommendation Summary Text:

This item requests funding to provide residential services and supports to eligible division clients who pose a significant public safety risk. Additionally, this item requests funding for the settlement agreement in Allen v. Western State Hospital, et al. Statewide result number 5.

Fiscal Detail:

Operating Expenditures

	<u>FY 1</u>	<u>FY 2</u>	<u>Total</u>
Program 040			
001-1 General Fund - Basic Account-State	438,000	3,883,000	4,321,000
001-C General Fund - Basic Account-DSHS Medicaid Federa	410,000	3,620,000	4,030,000
Total Cost	848,000	7,503,000	8,351,000

Staffing

	<u>FY 1</u>	<u>FY 2</u>	<u>Annual Avg</u>
Program 040 FTEs	0.6	0.6	0.6

Package Description:

1) Mentally Ill Offenders

Since the passage of the Dangerous Mentally Ill Offender Legislation (SSB-5011) in 1999, the Division of Developmental Disabilities (DDD) has been requested to provide community protection services for those individuals with developmental disabilities being released from the Department of Corrections (DOC) who are eligible for DDD services. These individuals are currently competing for services with other individuals who have developmental disabilities who also need community protection services and already reside in local communities.

This proposal would provide case management, residential, therapy, and day programs for individuals scheduled for release from DOC during the 2003-05 Biennium. The Dangerous Mentally Ill Offender (DMIO) Statewide Review Committee (comprised of representatives from DOC, DSHS, Community Mental Health, and Law Enforcement) has identified the individuals as needing community protection services upon their release. The division is requesting funding to serve 11 individuals at an average daily rate of \$300.00.

An estimated 0.1 FTE is needed (a case management ratio of 1:65) for the intensive case management that this population requires. The case manager will participate in the pre-release engagement services, determine eligibility, develop and monitor service plans, make referrals to residential providers, and coordinate with employment and day program providers and therapists.

2) Community Protection Program

The Community Protection Program serves people with developmental disabilities who have a history of sexual offenses and violent crimes. The individuals live in their own homes with 24-hour supervision and do not go into the community without supervision. Therapy for sex offenders is provided by a licensed sex offender treatment professional (SOTP), and day program/employment services are provided by vendors contracted through the counties.

The division currently serves approximately 370 individuals in residential settings that have been certified to provide community protection services. The vendors applied through the contract process, and had to meet very specific standards to provide services.

This proposal would provide case management and residential, therapy, and day programs for individuals with developmental disabilities who are in need of these services. These individuals are currently living alone, with family members, in jail,

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homeless, or other locations. There are currently 130 individuals living in the community who meet the community protection program criteria. DDD would prioritize services for those individuals who are considered by professionals as most likely to re-offend. The division is requesting funding to serve 30 individuals at an average daily rate of \$300.00.

An estimated 0.5 FTE (a case management ratio of 1:65) are needed for the intensive case management that this population requires and the necessary resource development. Case managers are required to coordinate and attend team meetings that are held at least quarterly (more often if needed), plus intervene, and be available to the individuals and their families. Providers need more assistance and consultation from the case managers for resource development and service provision. This includes ensuring that the specialized training requirements, policies, behavior support plan, and environmental supports are in place for each person.

3) As part of the development of appropriate community services for individuals with developmental disabilities and co-occurring mental health issues for the Allen and Marr Settlement Orders, DDD maintains contracts with providers for crisis diversion bed services. These services provide an alternative to psychiatric hospitalization and offer time-limited residential supports and other mental health supports in an effort to prevent involuntary commitment at a community hospital or state psychiatric hospital. When the mental illness is stabilized and the individual is no longer in need of acute care, the majority of clients are able to return to existing community residential settings with existing levels of support. However, many individuals are admitted to the diversion beds from jail, the streets, or other settings to which they cannot return. In the 01-03 biennium there were 2380 bed days to provide 194 state hospital diversions. The division is asking for funding to serve 25 individuals with an average daily rate of \$275/day who have been stabilized at a crisis diversion bed and once stabilized, need on-going residential services and supports.

4) State Psychiatric Hospital Outplacements

The number of individuals with developmental disabilities at the two state hospitals grew from 56 in August 1996, to a high of 92 in August 1998. In October 1998, Western State Hospital was cited by the Health Care Finance Administration currently the Center for Medicare and Medicaid Service for failure to provide active treatment to persons with developmental disabilities during their commitment. The hospital was further cited for not placing persons who were determined stable. Subsequently, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) cited the hospital for lacking specialized programs for this population.

In December 1998, the Secretary of the Department of Social and Health Services (DSHS) established a collaborative workgroup with staff from DDD, the Mental Health Division and the community mental health system. This workgroup was charged with developing a set of recommendations regarding how to reduce the unnecessary hospitalization of dually diagnosed persons, improving services during hospitalization, and facilitating the timely discharge of patients determined psychiatrically stable. Their report was published in April 1999.

In January 1999, the Washington Protection and Advocacy System (WPAS) filed a class-action lawsuit against the state (Allen v. DSHS) alleging abuse and neglect of individuals with developmental disabilities. It further alleged that individuals were denied opportunities for discharge to community programs and were at risk of unnecessary involuntary commitment. The WPAS suit entered court-ordered mediation in October 1999 and reached a mediated settlement on December 2, 1999. WPAS has filed an additional lawsuit, Smith vs. DSHS, et al, alleging failure of the state to place clients from Western State Hospital who are determined ready for discharge from the state hospital.

To support the mediated settlement, the department prepared a three-phase program proposal for the 2000 Supplemental Budget. The first phase restructured services at the state hospitals to better meet the needs of individuals with developmental disabilities, and increased the collaboration of community mental health and DDD services. Phase 2 made significant improvements in diversion activities to reduce state hospital admissions and prevent re-admissions. Phase 3 represents the development of a secure long-term treatment facility for individuals whose state hospital stay exceeds 17 days of active treatment. Individuals in the program are anticipated to return to the community with adequate supports. The Legislature funded Phase 3 to be housed at the state psychiatric hospitals. These clients, when stabilized will require residential, day

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services, and therapy. This request is for funds to provide these services for 39 individuals at an average rate of \$300 per day.

Narrative Justification and Impact Statement

How contributes to strategic plan:

This decision package relates to the division's strategic plan in which DDD will effectively and efficiently use resources to accomplish the values, principles, and the mission of DDD. The mission of DDD states that, while maintaining accountability for public and client safety, and authorized resources, DDD will design and maintain an effective system of residential supports and services. Specifically, the components of the decision package will enable the division to provide community protection services to eligible individuals being released from DOC, assist in implementation of the Collaborative Work Plan as provided for in the Allen and Marr Settlement Orders, and provide residential and day program supports for individuals determined likely to pose significant risks to public safety.

Performance Measure Detail

Program: 040

Goal: 04D Increase support for persons who are a danger to the community or themselves

Incremental Changes

FY 1

FY 2

Outcome Measures

4D1 Number of people with community protection issues served in community residential programs.

27

78

Reason for change:

1) Mentally Ill Offenders

Since the passage of the Dangerous Mentally Ill Offender Legislation, DDD has a responsibility to provide community protection services for individuals being discharged from DOC correctional facilities who are currently enrolled, or have previously been enrolled, in DDD services and who pose a significant risk to public safety due to their mental illness and assessed dangerousness. At present, there is not enough funding available to provide services for the people coming out of the prison system, as well as those individuals who need community protection services who are living on their own, in jail, homeless, or with family members.

2) Community Protection Program

This decision package will provide community protection services for 30 people who are dangerous to their community because of their histories of sexual offenses and other violent crimes.

3) Mental Health Crisis Diversion Outplacements

This proposal provides funding for 25 individuals who have been admitted to crisis diversion beds that do not have a residential placement, or are in settings to which they cannot return.

4) State Psychiatric Hospital Outplacements

This package funds placements for 39 individuals residing in the state hospital who have been or will have met discharge criteria from January 2004 - June 30, 2005.

Impact on clients and services:

1) Mentally Ill Offenders

The individuals who will be served by this decision package are being returned to their communities after several years of being incarcerated for crimes they have committed (i.e., sex offenses and other serious violent offenses). The majority have either no family to return to, or cannot return to the family home because the person they victimized is living in the home. A

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specialized environment will be provided that minimizes risk to the community, yet still enables these individuals to receive the services they need. The program will provide the necessary structure to enable the offenders to transition successfully from incarceration back to their communities. Other living arrangements may not provide community safety.

2) Community Protection Program

A large majority of the individuals who would be served are receiving very minimal services from DDD, because of their dangerousness, i.e., they cannot live in Adult Family Homes or Residential Care Centers because of their behaviors and the lack of supervision. The Community Protection Program provides a specialized environment, where the participant has agreed to supervision in a safe, structured manner that has specific rules, requirements, restrictions, and expectations in order to maximize community safety.

3) Mental Health Crisis Diversion Outplacements

The funding provides residential supports, primarily through Supported Living programs. Funding also provides day program assistance and professional therapies, such as specialized counseling. Funding would provide residential supports reserved for individuals in the crisis diversion beds who, when have stabilized, lack funds for permanent placement and are at risk of being hospitalized at a state psychiatric hospital.

4) State Psychiatric Hospital Outplacements

The funding would provide residential supports, primarily through Supported Living programs. It also would provide day program assistance and professional therapies, such as specialized counseling. The individuals who are admitted to Western State Hospital are determined to be class members of the Allen lawsuit while those admitted to Eastern State Hospital are determined to be class members of the Marr lawsuit, so delays in discharge once psychiatrically stable, could result in the continuation of the lawsuit or other pending litigation such as "Smith vs. DSHS, et al".

Impact on other state programs:

1) Mentally Ill Offenders

Lack of availability of funding and services for these individuals through the Community Protection Program places an additional burden on the Department of Corrections to transition these offenders successfully back to their communities.

2) Community Protection Program

Not applicable

3) Mental Health Crisis Diversion Outplacements

These individuals are clients of DDD. However, if they are admitted to the state hospitals, they are funded through MHD, until such time as they are discharged from the state hospital.

4) State Psychiatric Hospital Outplacements

As above, these clients who are admitted to the state hospitals are funded through MHD, until such time as they are discharged from the state psychiatric hospital.

Relationship to capital budget:

Not applicable

Required changes to existing RCW, WAC, contract, or plan:

Not applicable

Alternatives explored by agency:

1) Mentally Ill Offenders

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Without the Community Protection Program, the 11 individuals will be discharged from DOC custody with only minimal supervision from the community corrections officer assigned to them and minimal contact with the Regional Support Network for needed therapies. Very few would qualify for Medicaid Personal Care services, Adult Family Homes or Adult Residential Care facilities due to the potential for victimization of other residents.

The best alternative is a specialized environment where the participant has agreed to receive supervision and individualized supports in a safe, structured manner that has specific rules, restrictions, and expectations for personal responsibility to maximize community safety and reduce the risk of re-offense.

2) Community Protection Program

Adult Family Home and Adult Residential Center services were explored. This population cannot live in these settings because the other people living with them, and persons in their neighborhood, would be at risk of sexual assaults or other violent crimes, such as arson. Very few would qualify for Medicaid Personal Care services.

The best alternative is a specialized environment where the participant has agreed to supervision in a safe, structured manner that has specific rules, restrictions, and expectations for personal responsibility to maximize public safety.

3) Mental Health Crisis Diversion Outplacements

An option would be to use the diversion beds for long-term residential support; however, this would eliminate the intent of establishing alternatives for short-term behavioral support, and crisis response, and this would most likely result in an increase of state psychiatric hospital admissions.

4) State Psychiatric Hospital Outplacements

An option would be the continued hospitalization of individuals whose treatment teams have determined the client is ready for placement. This could jeopardize hospital certification, accreditation, and possibly reactivate the Allen lawsuit or invite new litigation.

Another option would be to place individuals back into the community setting where they resided prior to hospitalization. In many cases, these individuals would return to their own apartments or family homes where their dangerous behaviors would go unsupervised. In addition, many individuals who would not be placed from the hospitals into supervised residential settings may have no other safe settings in which to return.

Budget impacts in future biennia:

Costs are expected to continue in future biennia. Annual costs for maintaining the estimated June 2005 caseloads are \$1.2 million for mentally ill offenders; \$3.3 million for the Community Protection Program; \$2.5 million for mental health crisis diversion outplacements; and \$4.3 million for state psychiatric hospital outplacements.

Distinction between one-time and ongoing costs:

With the exception of the \$2,500 per person one-time costs, this funding would be needed on an ongoing basis.

Effects of non-funding:

1) Mentally Ill Offenders

The individuals described in this decision package will be discharged from prison to their local communities with very minimal supervision and therapies. Typically they have little support or resources for a successful transition to the community. Many will be required to register as sex offenders with the local sheriff's office. Without providing individualized supervision, assistance in finding housing, needed therapy, and employment, they are at increased risk of re-offending and returning to the correctional system.

2) Community Protection Program

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Many of the individuals described in this decision package are either never charged for their crimes or are found incompetent to stand trial and charges are dropped. They continue to live in their communities with no supervision and are very likely to re-offend.

3) Mental Health Crisis Diversion Outplacements

These individuals have no other residential options available to them, so if their supports are not funded there will likely be an increase in the numbers of admissions to state psychiatric hospitals, as well as an increase in the average lengths of stay (LOS) in the state hospitals. This will not be acceptable to the Federal Court overseeing the states progress in the Mediated Settlement in Allen and Marr.

4) State Psychiatric Hospital Outplacements

As above, these individuals have no other residential options available to them, so if their supports are not funded there will likely be increases in the numbers of admissions to state psychiatric hospitals, as well as an increase in the average LOS in the state hospitals. This will not be acceptable to the Federal Court overseeing the states progress in the Mediated Settlement in Allen and Marr.

Expenditure Calculations and Assumptions:

See attachment - DDD PL-DP Community Protection Placements.xls

<u>Object Detail</u>	<u>FY 1</u>	<u>FY 2</u>	<u>Total</u>
Program 040 Objects			
A Salaries And Wages	27,000	27,000	54,000
B Employee Benefits	8,000	8,000	16,000
E Goods And Services	5,000	5,000	10,000
G Travel	2,000	2,000	4,000
J Capital Outlays	8,000	2,000	10,000
N Grants, Benefits & Client Services	797,000	7,458,000	8,255,000
T Intra-Agency Reimbursements	1,000	1,000	2,000
Total Objects	848,000	7,503,000	8,351,000

DSHS Source Code Detail

Program 040	<u>FY 1</u>	<u>FY 2</u>	<u>Total</u>
Fund 001-1, General Fund - Basic Account-State			
<u>Sources</u> <u>Title</u>			
0011 General Fund State	438,000	3,883,000	4,321,000
Total for Fund 001-1	438,000	3,883,000	4,321,000
Fund 001-C, General Fund - Basic Account-DSHS Medicaid Federa			
<u>Sources</u> <u>Title</u>			
19TA Title XIX Assistance (FMAP)	385,000	3,598,000	3,983,000
19UL Title XIX Admin (50%)	25,000	22,000	47,000
Total for Fund 001-C	410,000	3,620,000	4,030,000
Total Program 040	848,000	7,503,000	8,351,000